

Appl. No.: 10/088,731
Response dated October 11, 2006
Reply to Office action of April 19, 2006

Remarks

Claims 12-15, 17-21, and 23-31 are pending in this application.

As presently claimed, the application is directed to a composition comprising an alkyl and/or alkenyl oligoglycoside and an anionic surfactant selected from the group consisting of dicarboxylic acid, monoesters, dicarboxylic acid monoester salts and mixtures thereof wherein the monoester comprises the residue of a C₆₋₂₂ fatty alcohol. The composition can optionally contain cosmetic and pharmaceutical active ingredients.

The critical limitations in the claims are a composition which must contain an alkyl or alkenyl oligoglycoside, and an anionic surfactant foam stabilizer selected from a group consisting of dicarboxylic acid monoesters, dicarboxylic acid monoester salts, and mixtures thereof. In addition, the claims are directed to a process for enhancing the dermatological and ophthalmic mucous membrane compatibility of a cosmetic or pharmaceutical composition which comprises adding to the cosmetic or pharmaceutical composition an alkyl or alkenyl oligoglycoside and an anionic surfactant foam stabilizer which is a dicarboxylic acid monoester or dicarboxylic acid monoester salts, and mixtures thereof. The composition contains active ingredients which are cosmetic ingredients or pharmaceutical active ingredients.

The critical limitations of the present invention are the presence of an oligoglycoside, and an anionic surfactant which is the monoester of a dicarboxylic acid or salt thereof with a C₆₋₂₂ fatty alcohol. In formulating the rejection, the Examiner has completely ignored the critical limitations in the claims.

Claims 12-14, 17-21, and 23-31 stand rejected under 35 U.S.C. 103(a) as unpatentable over Ansmann et al. (U.S. 6,235,702; hereinafter, U.S. '702) in view of Desai et al. (WO 96/15138; hereinafter, WO) or over U.S. '702 by itself. Applicants respectfully submit that U.S. '702 and WO, whether considered alone or in combination,

neither teach nor suggest the present invention.

Applicants have reviewed the prior art cited by the Examiner and can find no teaching nor suggestion of an alkyl or alkenyl oligoglycoside in combination with an anionic surfactant selected from a group consisting of monoesters of dicarboxylic acid and salts thereof with C₆₋₂₂ fatty alcohols. In addition, there is neither teaching nor suggestion of stabilization of an oligoglycoside surfactant foam.

U.S. '702 is directed to aqueous pearlescent concentrates containing esters of polybasic carboxylic acids or hydroxycarboxylic acids, emulsifiers and optionally polyols and to pearlescent surface active formulation using the concentrates.

As one skilled in the art would understand, pearlescent waxes are not anionic surfactants. Pearlescent waxes are materials which are not soluble in the aqueous medium and remain in a crystalline form to provide the pearlescent appearance to the aqueous composition to which it is introduced. In contrast to the pearlescent waxes disclosed in U.S. '702, the present invention requires an anionic surfactant which is a monoester of a dicarboxylic acid or a salt thereof with a C₆₋₂₂ fatty alcohol. The particular anionic surfactant useful in the practice of the present invention and the pearlescent waxes disclosed in U.S. '702, are completely different materials, having different properties and, in particular, the pearlescent waxes are not anionic surfactants. Applicants therefore respectfully submit that U.S. '702 is completely silent concerning a foam stabilized oligoglycoside-containing composition of the present invention.

In addition, since it is well known and understood that pearlescent waxes are not soluble in the aqueous medium, addition of the pearlescent wax to an oligoglycoside composition could not improve the dermatological and ophthalmic compatibility of the composition. Applicants therefore respectfully submit that U.S. '702 would neither teach nor suggest the present invention.

The deficiencies in U.S. '702 are not cured by combination with WO. WO is directed to a composition and process for enhancing the tactile and esthetic properties

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of alkyl polyglycosides. WO discloses an alkyl oligoglycoside in combination with an anionic surfactant. A long list of anionic surfactants is set forth at page 6, lines 2-19. However, none of the anionic surfactants shown in the long list of useful additives comprises a monoester of a dicarboxylic acid containing 2-12 carbon atoms with a fatty alcohol containing 6-22 carbon atoms. Applicants therefore respectfully submit that WO does not cure the deficiencies in U.S. '702.

Since U.S. '702 neither teaches nor suggests a mixture of an alkyl or alkenyl oligoglycoside with an anionic surfactant which is the monoester of a dicarboxylic acid or a salt thereof with a C₆₋₂₂ fatty alcohol, Applicants respectfully submit that U.S. '702 neither teaches nor suggests the present invention.

Since WO is completely silent concerning the composition comprising an alkyl or alkenyl oligoglycoside and an anionic surfactant which is the monoester of a dicarboxylic acid or a salt thereof with a C₆₋₂₂ fatty alcohol, Applicants respectfully submit that U.S. '702 alone or in combination with WO neither teaches nor suggests the present invention. Applicants therefore respectfully submit that a rejection based on U.S. '702 alone or in combination with WO is untenable and respectfully request that the rejection be reconsidered and withdrawn.

At page 3, lines 1 and 2, Examiner states:

"U.S. '702 also exemplifies a composition comprising tartaric monosterol ester and cocoalkylglycoside, which read on the instant components (a) and (b) (Table 1, composition R1)."

Applicants respectfully submit that a tartaric monosterol ester disclosed in U.S. '702 is not an anionic surfactant but is a pearlescent wax which one skilled in the art would understand contains a crystalline structure in an aqueous mixture and does not substantially reduce the surface tension of water. Applicants therefore respectfully submit that the Examiner reconsider her understanding of the teachings of U.S. '702.

The Examiner's rejection appears to be based on her understanding that a

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pearlescent wax is the same as an anionic surfactant which is the monoester of a dicarboxylic acid or a salt thereof with a C₆₋₂₂ fatty alcohol. Applicants respectfully request that the Examiner show some reference which teaches that pearlescent waxes are anionic surfactants. Applicants submit that as far as they understand the art, pearlescent waxes are never considered to be anionic surfactants since they are not soluble and retain their crystalline structure in an aqueous mixture. Unless the Examiner can provide some teaching that a pearlescent wax is an anionic surfactant, Applicants submit that the Examiner's rejection is based on speculation and misunderstanding of the art.

In view of the above discussion, Applicants respectfully submit that the application is in condition for allowance and favorable consideration is requested.

Claim 15 stands rejected under 35 U.S.C. 103(a) as unpatentable over U.S. '702 in view of WO and further in view of Barker et al. (U.S. 3,703,481); or over U.S. '702 in view of Barker et al. Applicants respectfully submit that the new grounds of rejection do not provide a prima facie case of obviousness and neither teach nor suggest the present invention.

U.S. '706 and WO have been discussed in great detail above. The deficiencies in the reference is not cured by combination with Barker et al.

The Examiner mischaracterizes the teachings of Barker et al. or does not understand and ignores the limitations in the claims of the present application.

In the claims in the present application, the anionic surfactant is a monoester of a dicarboxylic acid with a fatty alcohol containing 6 - 22 carbon atoms. In contrast to the present invention, Barker et al. discloses use of ammonium, alkyl ammonium or alkaline metal salts of a monoester of a C₃-C₆ saturated aliphatic dicarboxylic acid with a fatty acid alcohol amide. Applicants respectfully submit that a fatty acid alcohol amide is not the same or equivalent to a C₆₋₂₂ fatty alcohol. Applicants therefore respectfully submit that Barker et al. neither teaches nor suggests use of a monoester of a

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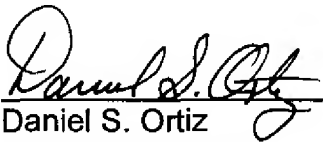
dicarboxylic acid with a C₆₋₂₂ fatty alcohol. Applicants therefore respectfully submit that Barker et al. does not cure the deficiencies in U.S. '702 alone or in combination with WO.

In view of the above discussion, Applicants respectfully submit that the rejection is untenable and respectfully request that it be reconsidered and withdrawn.

Respectfully submitted,

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